



July 2, 1999

Mr. Matthew R. Scott
Cooper & Scully
Founders Square
900 Jackson Street, Suite 100
Dallas, Texas 75202

OR99-1849

Dear Mr. Scott:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 125416.

The City of Coppel (the "city") received a request for "all investigation [sic] of the assault on the 400 block of Royal Lane on February 22, 1999. This should include all the information which was submitted to court." You submitted to this office information that is responsive to the request, and you claim that the requested information is excepted from disclosure under section 552.108(a)(2) and 552.108(b)(2) of the Government Code. We have considered the exception you claim and reviewed the submitted information.

According to our records, the information at issue here appears to be some of the same information that the city inadvertently released to Mr. John Robinson in April 1999. If the city retrieved the information at issue here from Mr. Robinson pursuant to the injunction it sought, then the city may withhold the information from disclosure as discussed below. If the city did not retrieve the information at issue here from Mr. Robinson, then the city may not rely on the discussion below and must publicly disclose the information. *See* Open Records Decision No. 387 (1983).

You assert that the requested information pertains to a case that did not result in a conviction or deferred adjudication. However, you also state that the requested information pertains to an ongoing criminal prosecution. Section 552.108 of the Government Code excepts from required public disclosure

(a) Information held by a law enforcement agency or prosecutor
that deals with the detection, investigation, or prosecution of crime . . .
if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state [and]

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution . . . if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution;

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) the internal record or notation:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(c) This section does not except from [public disclosure] information that is basic information about an arrested person, an arrest, or a crime.

A governmental body claiming section 552.108(a)(2) or 552.108(b)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. Because the prosecution of the case is ongoing, the requested information is not protected by either 552.108(a)(2) or 552.108(b)(2). However, because you state that prosecution of the case is ongoing, you may withhold most of the requested information under section 552.108(a) because release of the information would interfere with the prosecution of crime. Section 552.108 does not, however, except from required public disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). "Basic information" refers to the information held to be public in *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). You must release basic information about the crime. Although section 552.108(a) authorizes you to withhold the remaining information from disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov't Code § 552.007.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH\ch

Ref: ID# 125416

Encl. Submitted documents

cc: Mr. John Robinson
540 Christi Lane
Coppell, Texas 75019
(w/o enclosures)